IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO.2506 OF 1985

Central Bank of India ...Plaintiffs
vs.
M/s.N.Bipinchandra & others ...Defendants

Mr.N.D.Yelkar for the Plaintiffs
Dr.D.B.Brahmbhatt i/b Thakordas & Madgavkar for the Defendants

CORAM: A.S.OKA,J.
DATE : OCTOBER 5,2007

P.C.:

1. Heard the learned counsel for the plaintiffs. He states that the proposal for settlement has been rejected by the plaintiffs. Following issues are settled :

i) Whether the defendant Nos.1 to 3 prove that the suit is not maintainable as alleged in paragraph 2 (d) of the written statement?

ii) Whether the plaintiffs prove that on 26th October 1982, the first defendant and its partners executed a demand promissory note in the sum of Rs.15,00,000/- with interest thereon at the rate of 19.5% p.a. with quarterly rest in favour of the plaintiffs ?

iii) Whether the plaintiffs prove that the first defendant executed in favour of the plaintiffs delivery discount agreement dated 26th October 1982 ?

vi) Whether the plaintiffs prove that the second and third defendants executed a letter of guarantee on 26th October 1982 by which they guranteed the repayment of the amount due and payable by the first defendant to the plaintiffs?

v) Whether the plaintiffs prove that the first defendant availed of and enjoyed the bill discounting facility in the limit of Rs.15,00,000/- granted by the plaintiffs against the accepted lease?

vi) Whether the plaintiffs prove that under the said bills discounting facility, on 13th January 1983 the first

defendant drew on fourth defendant and in favour of the plaintiffs bill of exchange bearing No.765 in the sum of Rs.1,00,535.40p and the said bill of exchange has been accepted by the fourth defendant ?

vii) Whether the plaintiffs prove that the said bill of exchange was dishonoured by the fourth defendant ?

viii) Whether the plaintiffs prove that the said bill of exchange is properly stamped in accordance with the provisions of Indian Stamps Act ?

ix) Whether the defendant Nos.1 to 3 prove that the notice of dishonour dated 8th July 1985 is bad, illegal and void ?

x) Whether the plaintiffs prove that they are entitled to interest at the rate of 19.5% p.a. from the date of bill of exchange till the due date ?

xi) Whether the second and third defendant prove that they had signed the guarantee on the assurance of the plaintiffs that the same would never be acted upon or enforced against the said defendants ?

xii) Whether the defendants prove that the suit is barred by Rule 2 of Order II of the Code of Civil Procedure,1908 ?

xiii) Whether the plaintiffs prove that they are entitled to recover a sum of Rs.1,48,982.25 with interest as prayed in the suit from the defendant nos.1 to 3?

xiv) What order and decree ?

2. The discovery and inspection shall be completed on or before 22nd October 2007. The suit shall be set down for recording of evidence on 25th October 2007. The Advocate for the plaintiffs will supply copies of the documents as well as affidavit in lieu of evidence of the witness of the plaintiffs four days in advance.

JUDGE